

Date signed May 03, 2006



Paul Mannes

PAUL MANNES
U. S. BANKRUPTCY JUDGE

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
at Greenbelt**

IN RE:	:	
	:	
SHIRLEY ANN WHITING	:	Case No. 05-14948PM
	:	Chapter 13
Debtor	:	
-----	:	
AMERICREDIT FINANCIAL SERVICES	:	
	:	
Movant	:	
vs.	:	
	:	
SHIRLEY ANN WHITING	:	
CHARLES THOMAS WHITING, Co-Debtor:	:	
	:	
Respondents	:	
-----	:	

MEMORANDUM OF DECISION

Before the court is a Motion filed on behalf of AmeriCredit Financial Services ("AmeriCredit") to set aside a Consent Order for installment payments and relief from the automatic stay entered August 15, 2005. The Motion seeks to vacate the Order that provided for payment of post-petition arrears of \$1,592.20, since paid in full, and to replace that figure with what are termed "actual" post-petition arrears in the sum of \$5,591.57. But for the civility of counsel for the Debtor in not initiating a motion for sanctions pursuant to Bankruptcy Rule 9011(c), AmeriCredit's Motion would have been subject to severe sanctions from the court.

This bankruptcy case under Chapter 13 was filed on March 7, 2005. Assuming that no payments whatsoever had been made by the Debtor prior to the passage of the Consent Order, the

most that could have been due was a sum equivalent to five times the approximately \$343.83 monthly car payment. To assert that the post-petition arrears at the time of the Consent Order were \$5,591.57 is without foundation in fact or law.

In passing, the court notes that the interest rate on this loan is stated at 19.95%. The payoff balance is \$13,373.16 according to the proof of claim filed by AmeriCredit that values the 2000 Dodge Neon 4-cylinder sedan at \$4,087.00.

An appropriate order will be entered.

cc:

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Charles T. Whiting, 1716 Bradmoore Drive, Forestville, MD 20747

End of Memorandum